COMMUNIQUÉ

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June, 2006

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President's Report

Jon van der Krabben
President

This is my first report to you since I was elected President on May 19, 2006.

Many of you already know the story behind the fact that I was suddenly and unexpectedly elected (not the one about hypnotizing my Bencher colleagues) as President of the Law Society. If you do not, please feel free to access the Law Society website and read Allan Fineblit's Bencher Bulletin of last month. I reiterate my sympathy for Donna Miller, Q.C., who was suddenly and unexpectedly prevented from assuming the Presidency and have no doubt that her offer of assistance in the coming year is genuine.

My first six weeks of the Presidency have been somewhat of a blur and I will use this platform to apologize en masse to all of you who have files with me and have been told by my secretary that I am unavailable for a period of time. I have had the pleasure of attending a retreat of the Alberta Law Society in Jasper, together with the executive of the Saskatchewan and British Columbia Law Societies. I have also had the pleasure of attending at the Call to the Bar Ceremony on June 15, 2006. Until then I had attended four Call to the Bar ceremonies, including my own, although this time I was struck by the sheer happiness that the newly called lawyers and their friends and families showed that day.

As you are all aware, Manitoba lawyers and lawyers in most other provinces have enjoyed greatly enhanced mobility for some time. Not too long ago the Law Societies of the three Territories joined the Mobility Agreement for permanent mobility. I am pleased to advise that even more recently the last jurisdiction in Canada that was reluctant to sign on to the Mobility Agreement, Prince Edward Island, has now done so (see Allan and Marilyn's mobility articles for more detail).

I can also report that Bill Gange and Irene Hamilton and their hard working Code of Professional Conduct Committee are well into revising and modernizing our Code of Conduct. From what I have seen I think we will all be pleased with the ultimate result and it is cautiously hoped that a comprehensive draft revision of the Code will be completed before next summer.

In addition, there has been nothing but positive feedback about the Law Society's eLaw program. For those of you who are not aware of this program any member of the profession can sign up to receive regular email updates on the current status of the law in Property and Succession, Business Law, Family Law, Litigation and Criminal Law. For those of you not familiar with the service I urge you to contact the Law Society and add your name to the list and then sit back and receive regular e-mail updates. Other than subscribing, this service takes no work. You simply receive notices of the latest developments in certain areas of law right to your desktop. If this service continues to be well received, which I believe it will be, it will be expanded to cover other areas of law.

Although we are in the middle of one major project at the Law Society, namely revising the Code of Conduct as previously indicated, another major project, that of mandatory continuing legal education, is slated to be tackled some time in the fall by the Admissions and Education Committee. Recommendations in this regard are expected to be presented to the Benchers before the summer of 2007 and in due course to be presented to the Profession as well.

It is my understanding that the concept of mandatory continuing legal education (CLE) for lawyers is one that has reared its intrusive head from time to time for many years. It has been discussed on more than one occasion during my six years as a Bencher. My initial reaction to the concept, as is

usually the case with regulatory measures of any nature, was to opine that George Orwell was alive and well in the new millennium.

The arguments against such a concept include the fact that there is no evidence that mandatory CLE improves competence. Although it would appear to be safe to assume that it does, the Law Society has looked to see whether there is any correlation between CLE attendance and discipline and insurance and found that there is remarkably little. Other professions also find that many people forced to attend seminars simply show up and read the newspaper or sleep, or in the modern age bring their MP3 player. I suspect that many of you as well feel that being told what to do and not being trusted to maintain your competence is completely unnecessary.

There are, however, many compelling arguments in favour of mandatory CLE. Lawyers are the only profession with no such requirement. Many believe that this is something that will not go unnoticed indefinitely by the government of the day and the general public. Like a client with an anticipated weakness in their evidence, it may be wise to deal with the situation up front and on our own terms, rather than having someone tell us what to do, or worse yet, losing some of our rights to self-govern. It was not long ago that lawyers in England and Wales had regulatory changes imposed upon them which effectively removed their right (or privilege?) to self-govern.

Ontario recently set standards for minimum CLE and although they do not require mandatory attendance, they do require mandatory annual reporting of CLE attendance. Interestingly they found that the mandatory reporting itself significantly increased attendance.

A recent study by the Law Society of Upper Canada on the measures regulators take to assure quality of service, rated lawyers at the bottom. The only good news is that Manitoba rated the highest of all provinces and territories in this study.

The issue of mandatory CLE, as indicated, will be tackled in the coming year. Please feel free to contact any of the Benchers or myself if you wish to discuss this issue at all, or have any comments you wish the Admissions and Education Committee to consider. If you have any comments or questions with respect to any issues at any time, please do not hesitate to contact me directly. I promise to respond (within what I consider to be a reasonable period of time). I very much look forward to serving the Law Society (which includes all of you) this coming year.

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Benchers' Meeting Highlights

Jon's First Meeting as President

Allan Fineblit, Q.C.
Chief Executive Officer

The short reign of **President van der Krabben** (short because he missed the vice presidential year) began in earnest with the Benchers meeting of June 22, 2006. Jon reported that he and Vice President **Doug Bedford** and Deputy CEO **Marilyn Billinkoff** had already made a royal visit to a meeting of the Alberta Benchers. He also advised that he had spoken at the Call to the Bar on June 15, 2006 and would be representing the Law Society on judicial selection committees for The Pas and Winnipeg. President van der Krabben reported that the Executive Officers had met with the Attorney General about a number of matters and that the meeting had been very productive.

The Benchers had a thorough discussion about some new initiatives that would be paid for by some excess reserves in the Insurance Fund. At their last meeting (May 18, 2006) they started with a long list and narrowed it down to six good ideas.

Benchers identified four principles: the money should be used for initiatives closely tied to the insurance program (including loss prevention initiatives), the initiatives should benefit those who contributed to building the surplus through safe and effective practice (that's you guys), the initiatives should be consistent with our public protection mandate, and the initiatives should be sustainable once the surplus money ran out.

Then the fun began. There was general support for an initiative to subsidize the cost of voluntary excess insurance. All non-government lawyers must purchase $1 million worth of errors and omissions insurance, but many of you feel you need more. Our reciprocal insurer, CLIA, sells excess insurance (as do other carriers) and we have noted several claims pushing up against the $1 million maximum. If a lawyer makes a mistake and doesn't have enough insurance or assets to repay the loss to the client, then the public has not been well served. So…in order to better protect the public, the Law Society under this initiative would subsidize a significant portion of the cost of the purchase of an extra $1 million of CLIA voluntary coverage for anyone who wanted it. There were a few reservations. One Bencher noted that not everyone who contributed to building the excess surplus will benefit from this initiative because they may not feel their practice merits purchasing excess insurance, but most Benchers liked the idea.

Another initiative that was discussed was to increase the top hourly rate paid to counsel who act for the insurer. Our top hourly rate ($165 per hour) hasn't increased in 15 years, so it was hard to argue with this one. The only real negative sentiment was expressed by a few Benchers who felt that this was just good management and should be done regardless of whether there was a surplus or not.

The third initiative the Benchers discussed was to fund the investigative work done in connection with the Reimbursement Fund. While the Reimbursement Fund is operated by the Insurance Department, the general Bencher consensus

was that the surplus was generated by the Insurance Fund operation and not closely enough connected to the Reimbursement Fund (which covers theft, not mistakes).

The fourth initiative the Benchers discussed was giving out Continuing Legal Education vouchers. The idea is that continuing legal education contributes to competence and competent lawyering prevents insurance losses. There was a lot of discussion about whether discount vouchers would attract more people to continuing legal education. The general feeling was that if the worst case scenario played out (no one used the vouchers), the initiative wouldn't end up costing anything, so there wasn't a big downside.

There was a great discussion about subsidizing a desktop legal research project for out of Winnipeg lawyers. Desktop is clearly where legal research is going and having good research tools, the theory goes, prevents errors that cost the insurance program money. Lawyers outside of major centres have historically had poor access to law libraries and even those in centres that do have Law Society libraries (Brandon, Dauphin, Thompson and The Pas) have a pretty limited library collection. If we could get a good long-term deal from a commercial publisher, this option would go a long way towards levelling the playing field and for that reason most Benchers liked this idea a lot.

The final initiative was to contract with an experienced lawyer to provide practice management counselling to those that need it. We have noticed that a lot of insurance claims result from poor practice management and the theory was that by adding this kind of resource, we could prevent a lot of claims. I think it's fair to say that this initiative was a Bencher favourite…or maybe they were just tuckered out by the time we got to it.

Having given some pretty clear policy direction, it's now up to the boffins (that's me!) to turn this all into action. The Benchers asked for a follow-up report at their meeting in September. By then we should be on our way with several of the best ideas.

As if that wasn't enough fun for one afternoon, the Benchers handed out some money to the third year law students who won Law Society prizes. The Margaret Hypatia Crawford Award for the highest standing in third year law went to **Christopher Hunt** along with a cheque for a cool $1,500. **Kathleen McCandless** won the Law Society prize for the second highest standing in third year law ($1,250), **Melissa Danish** won for the third highest standing ($1,000), and **Lisa Labossière** and **Judith Eagle** tied for the fourth highest standing and split $750 between them.

Benchers also reviewed a monitoring report on the detailed year end financial statements and a major monitoring report on the Discipline Department. Monitoring reports are tools used by the Benchers to monitor performance based on the measures of success that they have identified.

Finishing off a very long agenda, the Benchers received a report from Bill Gange, the Law Society representative on the CLIA Board of Directors. Bill

was recently appointed Chair of their Loss Prevention Committee and reported that CLIA had a very good year and that over $1 million in excess equity would be refunded to Manitoba by CLIA.

Annual Meeting

Short and sweet again. Minutes (approved), audited statements (looking good), Annual Report (read it on the website), appointment of 2006/2007 auditors (Deloitte Touche). Meeting adjourned.

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Report of the Equity Ombudsperson
Pasternak twins show rare courage

Brenlee Carrington Trepel
Equity Ombudsperson

Whether or not we agree with them, twins Amy and Jesse Pasternak deserve credit for having the courage to stand up for their beliefs.

It takes guts to bring a human rights complaint — more so at the tender age of 17.

It is not my intention to discuss the merits of the Pasternaks' complaint. That's the role of the Manitoba Human Rights Commission's capable adjudicator. My point is that the Pasternaks are brave enough to pursue what they believe to be their human rights.

For two years, these twin sisters have given up playing hockey for their high school because they want to eradicate what they feel is a discriminatory policy.

By pursuing their solitary path, and by taking their claim of discrimination to the Manitoba Human Rights Commission, the Pasternaks have been hit with a barrage of criticism from all directions, and yet they persist.

By bringing their complaint, the girls are raising awareness of important human rights issues. That point was driven home when Sarah Lugtig, respected Counsel for the Manitoba Human Rights Commission, requested that the adjudicator mandate the Manitoba High School Athletic Association to remove the requirement that girls play only on girls' teams, "at least for hockey."

Lugtig went even further, "strongly urging" the Athletic Association to alter the girls on girls' teams only rule as it applies to other sports as well.

In other words, the Pasternak sisters have already had a significant impact by taking the debate public and raising questions about the policy for other sports as well.

In her closing, Lugtig argued by analogy that it would be "absolutely unacceptable" to force women to compete on a women's only moot court team in law school, on the premise that women needed extra support and should be helping each other. Such a team, said Lugtig, might be a great idea and a big help, but could not then become a licence to deny women the right to compete against men.

Same for a woman journalist, she said. Would we accept, she asked, that a woman international affairs reporter be required to start reporting on women's issues and give up her old job, because she was needed to promote women's news stories? Of course not, Lugtig concluded.

The Pasternak situation is similar in some respects to that of Justine Blainey. Blainey earned her place on a Metro Toronto Hockey League team but was banned from taking it because the league wouldn't allow females to play. She complained to the Ontario Human Rights Commission. Back then, Ontario's Human Rights Code permitted gender discrimination in sports.

Blainey challenged the law as violating women's equality rights. The Ontario Court of Appeal agreed with her in 1986, finding that the Ontario Human Rights Code needed to be changed. With her own courageous challenge, Blainey broke down barriers for women in sports across Canada.

In a recent article on the University of Toronto website, it's noted that Blainey's victory came at a high price. "While standing up for fairness and equality, Blainey faced instances of discrimination, cruelty, threats of violence and significant social pressure." Her treatment sounds similar to the kind of treatment the Pasternak sisters must be experiencing. Their hearing illustrated just how much the Pasternaks are sacrificing for the sake of their human rights challenge when the Winnipeg Free Press reported that a hockey coach testified that the Pasternaks "would have had a better shot at a university hockey scholarship if they had played on the girls' hockey team. The girls would have stood out as superior players on the girls' team."

In Ontario 20 years ago, it was inconceivable for a girl to play on a boys' hockey team. Then came the Ontario Court of Appeal ruling that forever changed the face of sports in that province and across Canada.

That change would never have happened without then 12-year-old Blainey's determination to blaze a new trail.

Those individuals willing to travel in uncharted territory should be lauded for their willingness to challenge the status quo and to bring a human rights

challenge. It's through their tenacity and vision that new laws are made and equality is advanced by the creation of legal precedents.

I tracked down Dr. Justine Blainey, now a successful Ontario chiropractor and a parent, and asked her via e-mail if she had any advice for the Pasternak sisters. Here's her response: "To the girls: don't give up—it's getting up from the checks of life that makes us stronger!"

"In the end," wrote Dr. Blainey in her e-mail, "even though there can be tough times, it is worth it because you're working together to change the life for someone else. I believe in the ability for us/people to change —my family did—it just takes more time for some. Let others, " she continued, "follow your lead—you are leaders in your own right. Love, Justine."

Dr. Justine Blainey once said that in retrospect: "My struggle for sport equality strengthened my idealism and courage."

Regardless of the adjudicator's ruling, Amy and Jesse Pasternak may feel the same way in the future about their current legal challenge.

If you have a respectful workplace issue that you'd like to discuss with me, remember that all services are provided free of charge and that all contacts are strictly confidential.

Contact me confidentially by phone: 942-2002; or toll-free 1-866-771-2002; fax: 474-1161; mail: P.O. Box 2555-Station Main, Winnipeg, Manitoba, R3C 4B3. You can also email me at brenleecarrington@shaw.ca or visit the Equity Initiatives page on the Law Society of Manitoba's web site at www.lawsociety.mb.ca/equity.htm.

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Allan's Odds and Ends

Allan Fineblit, Q.C.
Chief Executive Officer

1. Congratulations…
    - to Life Bencher **Wolf Riedel** who was inducted into the Order of Military Merit this year;
    - to **Bryan Gray** who was named Winnipeg Minor Basketball Association Bruce Russell Coach of the Year;
    - to **Ray Wyant** who accepted the 2006 U.N. Public Service Award for the Provincial Court Domestic Violence Front End Project;
    - and to **Catherine Hembroff** who recently received a Certificate of Commendation from the Chancellory of Honours for saving a

little girl from drowning in August of 2004.

2. eLaw is pretty successful. Every couple of weeks we send you an email in the area(s) of law you subscribe to and many of you have signed up at www.lawsociety.mb.ca /elaw/elaw.htm. Now there's an eLaw archive. Go to our website (www.lawsociety.mb.ca) and into the Members Only section. Log in using your email address as your user name and your membership card number as the password and you can access the archives.

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Joni Mitchell, House Deals and Parking Lots

Marilyn Billinkoff
Deputy Chief Executive Officer

I am a huge fan of Joni Mitchell. I have all her albums, my screensaver is a collage of her album covers and my son's name is Mitchell (an unintended coincidence, I keep telling myself). I'm also a fan of our Torrens land registration system. I've been involved with issues relating to residential real estate for over twenty years – initially through my work with the provincial real estate association and more recently in helping to develop the new practice standards that became the Protocol. I have spent so much time travelling with Herb Peters that I actually understand how a deal can "go sideways" and can chat over drinks about immediate or deferred indefeasibility of title. More importantly I have come to appreciate what we all stand to lose (lawyers, clients, Manitobans) if we don't protect the security of our provincial land registration system.

I know it's hard to get excited about the Torrens system. As I write this I can see your eyes glazing over as you start looking for Allan's Odds and Ends. But think about this. The Torrens system of government guaranteed title to land makes sure that the public has an organized, accurate, safe, transparent and permanent system of registering and recording title and interest in land that makes it easy for your clients to buy and sell property. The system is so good that provincial governments in Nova Scotia and New Brunswick have recently adopted land titles legislation and are currently in the process of converting their systems.

Each and every certificate of title issued under the Torrens system contains a legal description based on surveys conducted on Crown lands in the 1880s and the more detailed survey fabric that has developed since those original surveys. Building Location Certificates prepared by Manitoba Land Surveyors based on the land titles surveys give purchasers an understanding of the physical extent of the property covered by the title and the location of

the buildings on that title. Zoning Memos from the municipal government based on the BLC's provide confirmation that the location is in compliance with municipal zoning by-laws. BLC's and Zoning Memos allow any defects to be identified and corrected before the sale is finalized. This maintains compliance with municipal requirements.

> ***"Don't it always seem to go that you don't know what you've got till it's gone. They paved paradise and put up a parking lot"***

Replacing BLC's with title insurance has the potential to change all that. Title insurers market their product as being cheaper than a BLC. They say it offers protection by insuring over undetected defects, contraventions of zoning by-laws, the failure to obtain building permits, access problems, contraventions of restrictive covenants, encroachments etc. Imagine what would happen if everyone buying a home insured over those kinds of defects. Pretty soon the system to maintain zoning compliance and ultimately the underlying land titles survey fabric could be rendered unreliable and effectively destroyed. Then people wouldn't really know what they were buying. In my opinion this is short term gain for long term pain.

So how does any of this have a connection to Joni Mitchell? Remember Big Yellow Taxi, her song about paving paradise? While it's unlikely that she was thinking about Torrens when she wrote it (more likely Crosby, Stills, Nash or Young) the chorus reminds me that if we take our land titles and zoning compliance systems for granted then we will only appreciate it after it's gone. So think about the future the next time you handle a closing and take some time to explain to your clients the value of up-to-date survey and zoning information. You will not only be fulfilling your duties to your client but also helping to maintain the integrity of our title and off title information systems in support of the general public interest.

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Ungovernable

Allan Fineblit, Q.C.
Chief Executive Officer

I am pretty sure that I never used the word "ungovernable" in my whole life until I came to work at the Law Society. It's not that I didn't have a reason to. I have had, after all, countless dogs and teenage children who fit that description from time to time. My ragtag hockey team is totally ungovernable and so is the entire population of New Hampshire (you know, the guys with "live free or die" on their license plates). Lately I have been using the "U" word a lot and I've been directing it at lawyers, if you can believe it. Lawyers. You know, the rule of law people, the ones responsible for maintaining the institutions that underlie our democratic society.

I don't believe in judging people harshly. As someone full of flaws, it has been pretty easy for me to look at a lawyer who makes an error in judgment and say "there but for the grace of God go I". So…this rant feels a bit out of character, but hear me out. If you like a kinder, gentler Law Society, then it can only work if lawyers play by the rules of kinder, gentler governance.

If a lawyer makes a mistake, all I ask is that when we ask you about it, you respond within the timeframes required. Don't wait for a second letter or a third one. It's that simple. We will send out a reminder (in case the first letter went astray), but we'll be cranky about it. After we've sent a reminder though, the matter generally goes to the Complaints Investigation Committee with a recommendation that you be charged with failing to respond to the Law Society. It's my observation that the Complaints Investigation Committee is getting pretty fed up with that kind of governability issue. That may be because lately it seems to be taking a lot of our resources simply chasing down answers. I thought I should write and tell you about it.

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The Last Spike

Allan Fineblit, Q.C.
Chief Executive Officer

I've always suspected it was the way Confederation began…over a few beers. Seven years ago the four presidents of the four western law societies were having a drink and someone (I'm thinking it was Barney Christianson, but that may be because I always rely on the equation Barney + booze = crazy idea) asked why we just didn't shake hands and agree to break down provincial barriers that limited where a lawyer could practice. This seemed pretty radical at the time but the four western presidents shook hands and… well the rest is history.

Before long eight provinces had agreed to a National Mobility Agreement that would permit most lawyers to practice in a reciprocating jurisdiction for up to 100 days in a year. It also provided that lawyers who wanted to be called to the Bar in a reciprocating jurisdiction could qualify simply by completing a reading requirement (no more dreaded transfer exams).

Now the other Canadian jurisdictions have signed on to the National Mobility Agreement. The three territories have signed on to permanent mobility only for five years and last month New Brunswick agreed to sign on to the full National Mobility Agreement.

The President of the Law Society of Prince Edward Island told me that even though in 1867 the Fathers of Confederation met in Charlottetown and agreed to become a country, PEI was the last of the initial four provinces to ratify

that agreement and it took many years. It is only fitting then that PEI got to be the last province to sign the National Mobility Agreement as well. On June 24, 2006 at the Annual General Meeting of the Law Society of Prince Edward Island, members voted in favour of joining the National Mobility Agreement. Canadian lawyers will shortly be mobile from sea to sea to sea.

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Fast Lawyers

Allan Fineblit, Q.C.
Chief Executive Officer

Every year I read the results of the Manitoba Marathon so I can heap praise on the amazing feats of lawyers who run for a good cause. Every year the print gets smaller and the listof runners gets longer. The newspaper this year also reported the names of the ten kilometre walkers and the super runners, which is where I drew the line. I will happily report your walk or super run , but you will have to send me an email me about it (afineblit@lawsociety.mb.ca). Similarly, I know I missed some of you full marathoners and half marathoners and if I did, send me an email and tell me about it. Here is who I did spot:

The fastest runner award goes to **Leilani Kagan**, who ran an amazing 3:26:59 marathon. Other stars of the full marathon that I spotted were **Waldy Derksen**, **Chris Tait**, **Paul Anderson**, **Arthur Chapman**, **Jordan Lee-Wing**, **Sarah Lugtig**, and first time marathoner **Jennifer Cooper**, who won the fastest Bencher award (sorry Grant, but to qualify you have to actually run in the marathon…).

I almost gave the fastest lawyer award to **Brent Czarnecki**, who had an awesome time for the half marathon of 1:28:57. Certainly Brent was faster on a per mile basis but as Jordan Lee-Wing told me, "those speedy guys have it easy…try spending five hours on the course sometime!" The other half marathoners I came across were **Saul Simmonds**, **Andrew Swan**, **John Combs**, **Bob Doolan**, **Blair Graham**, **Joel Remis**, **Glen Joyal**, **Lisa Stiver**, **Kent Paterson** (who dragged me along for many miles before taking off on a three mile sprint to the finish line), **Glen Reid**, **Charlie Sherbo**, **Craig Murray**, **Joe Gallagher**, **Vic Bargen**, **Allan Finkel** and **Joelle Aylward**. Congratulations to all of you.

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Hiring Lawyers from other Canadian

Jurisdictions

Marilyn Billinkoff
Deputy Chief Executive Officer

Law firms are reminded that if they hire a lawyer from another Canadian jurisdiction who plans to work at the firm's Manitoba office pending his or her call to the Bar here, the lawyer must apply for and receive an inter-jurisdictional practice permit before commencing employment. The lawyer must maintain active practising status in his or her home jurisdiction (this includes maintaining insurance coverage if applicable) until the transfer process is complete. Only lawyers from jurisdictions that have signed and implemented the National Mobility Agreement (NMA) may apply for a permit (although all provinces and territories have now agreed to participate in the NMA, only British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador had implemented it to date.)

The permit will be issued for a defined period of time but will allow the lawyer sufficient time to file the necessary application, complete the reading requirement and be called to the Bar. If a firm includes the lawyer's name on its letterhead, correspondence or business cards before his or her call, then it must be made clear that the lawyer is not a member of The Law Society of Manitoba. Once called to the Bar, arrangements must be made with the Law Society's Comptroller for the payment of the annual practising fee and contributions.

For more information on this or other issues relating to the mobility of lawyers in Canada please contact me at 926-2010.

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Thank You

The Law Society of Manitoba wishes to thank the following members who have been involved in fee arbitrations as members of the Legal Fees Advisory Committee within the past year:

James Hedley	Bruce Rutherford	Wayne Onchulenko
Judith Blair	Douglas Ward, Q.C.	Stephen Vincent
Melanie Lautt	Cyril Labman	Peter Bruckshaw
Douglas Bedford	Roger King, Q.C.	Joe Aiello
Michael Finlayson	George Chapman, Q.C.	John Cram
Sandra Kliman	Wolf Riedel, Q.C.	Lawrence Donald
Derek Booth	David Matas	Joelle Robinson
Elliott Goszer	Donald Brock	William Johnston
Alvin McGregor, Q.C.	Wayne Jackiew	Len Fishman

Victor Bellay

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Notice to the Profession

Re: Not Being Used as the Tool or Dupe of an Unscrupulous Client

Chapter 3, Commentary 7 of the Code of Professional Conduct says that:

> *When advising the client the lawyer must never knowingly assist in or encourage any dishonesty, fraud, crime or illegal conduct, or instruct the client on how to violate the law and avoid punishment. The lawyer should be on guard of becoming the tool or dupe of an unscrupulous client.*
>
> *A lawyer should be alert to and avoid unwittingly becoming involved with a client engaged in criminal activities such as mortgage fraud. . . . Vigilance is required because the means for this activity . . . may be transactions for which lawyers commonly provide services such as purchasing and selling real estate.*
>
> *Before accepting a retainer or during a retainer, if a lawyer has suspicions or doubts about whether he or she might be assisting a client in dishonesty, fraud, crime or illegal conduct, the lawyer should make reasonable inquiries to obtain information about the client and about the subject matter and objectives of the retainer, including who are the legal or beneficial owners of property and business entities...The lawyer should make a record of the results of these inquiries.*

A series of transactions has come to the attention of the Society which has raised some concerns. In a typical scenario A will find residential properties which have clear title but are in tax arrears. A will approach the homeowner and offer a loan in exchange for a security interest in the property. Unbeknownst to the property owner, he/she is not simply signing a mortgage but a Transfer of Land in favour of A or a corporation beneficially owned by A or members of A's family.

If retained by A for the purpose of preparing, witnessing or registering the Transfers of Land, members of the profession ought to be making appropriate inquiries so as to ensure that they are not being used as the tool or dupe of an unscrupulous client.

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Outstanding Interest on Client Accounts

Pursuant to *Rule 5-57* of the Rules of the Law Society of Manitoba, a lawyer is entitled to charge interest on unpaid fees, charges or disbursements where the lawyer and client have so agreed. Such interest is calculated from a date that is at least one month after the date the bill is delivered to the client.

The rate of interest that may be charged shall not exceed the rate established under Section 161 of the *Income Tax Act* (Canada) on the date the bill is delivered. The interest rate effective for the period July 1, 2006 to September 30, 2006 is 8%.

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Notice of Benchers' Meeting

The next meeting of the Benchers of the Law Society of Manitoba will be held on **Friday, September 8, 2006 at 1:30 p.m. at the Elk Horn Resort in Clear Lake, Manitoba**. Members of the Society are encouraged to attend and participate in the deliberations of the governing body.

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Membership Changes

The following members have voluntarily changed their status as indicated on the dates shown:

Practising to Non-Practising:
June 1, 2006 Marcelle M. Marion
June 5, 2006 Melissa Fenn
June 7, 2006 Thomas R. Strutt
June 16, 2006 Arnold B. Dettman

Practising to Inactive:
Feb. 27, 2006 Jodi L. McFetridge
June 1, 2006 Brock T. Howie
June 2, 2006 James D. Sawa
June 16, 2006 Cory P. Hahn

Inactive to Practising:
May 29, 2006 Iain N. MacNair

Transfer from Another Province:

Julia Steele of the Law Society of Saskatchewan was called to the Bar of Manitoba on June 1, 2006 and is now entitled to practice law in this jurisdiction, having fulfilled the requirements of Rule 5-14.

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In Memoriam

Ernest Rudolph Dyck, who passed away on December 17, 2005 at the age of 65. Mr. Dyck received his call to the Bar on December 23, 1963. He practised law in Steinbach for 18 years, during which time he co-founded the firm known today as Smith Neufeld Jodoin LLP. In 1982 Mr. Dyck moved to Texas to pursue a business venture in the oil industry. He was residing there at the time of his death.

Gordon Erskine Pilkey, Q.C., who passed away on April 7, 2006 at the age of 81. Mr. Pilkey received his call to the Bar on June 2, 1951. He practised law in Dauphin for four years. In 1963 Mr. Pilkey was appointed Assistant Deputy Attorney General for the Province of Manitoba and in 1988 was appointed Deputy Attorney General, a position he held until his retirement from public service in 1990. Mr. Pilkey was appointed Queen's Counsel in 1962.

Duncan James Wayne Jessiman, Q.C., who passed away on April 19, 2006 at the age of 82. Mr. Jessiman received his call to the Bar on May 27, 1948. He began his career practising with the firm, Johnston, Jessiman, Gardner and Twaddle and in 1971 joined Pitblado & Hoskin when the two firms merged. In 1988 Mr. Jessiman joined Aikins, MacAulay & Thorvaldson where he continued to practise law until 2005. He served as Chairman to numerous inquiries, arbitrations, and conciliations to the Government of Canada, the Government of Manitoba and Manitoba Hydro as well as many other organizations, and also served as a board member to many community organizations, including the University of Winnipeg, the Victoria Hospital, Rainbow Stage, and the Canadian Arthritis Society. Mr. Jessiman was appointed Queen's Counsel in 1961 and was honoured by the Law Society in 2000 for having practised law for 50 years.

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